

Remarks/Arguments

Claims 1-19 are pending in the application. Claims 1-19 are rejected.

Claim Rejections Under 35 USC § 102

Claims 1-3, 5-16, and 17-19 are rejected under 35 USC § 102(b) as being anticipated by Averbuch et al. (US 5,689,825; henceforth "Averbuch"). Claim 1, however, recites a "charger system comprising: ... means for receiving data from a remote source and selectably transferring the data upon receipt to at least one of the means for transferring and a storage means of the charger" (emphasis added). There appears to be no teaching in Averbuch of a recharging unit in which data is transferred directly from the "receiving means" to the "means for transferring." Indeed, far from disclosing a selectable data transfer function, Averbuch discloses a system in which data is never sent "upon receipt" to the "means for transferring" but is always fully stored in the charging unit memory 306 first. This teaching appears at column 6, lines 29-33: "At step 418, it is determined if all the necessary blocks were received. If not, another session is initiated at step 406. If so, the blocks of updated software stored in memory 306 are sent to the portable wireless communication unit 101 at step 402."

In contrast claim 1 of the present invention, although not being limited by the specific embodiments of the present specification, is enabled at least by the language found at page 13, lines 7-12:

The transfer of data from the charger 110 to the remote control device 118 may be performed in a direct mode or an indirect mode. In the direct mode the received data is transferred directly to the data communication port 318b for transfer to the remote control device 118. In the indirect mode the received data is transferred to the charger's memory. The ... mode may be selectable by the user

Likewise, claims 7 and 15 (the two other independent claims), with their respective limitations of "selectably storing" and "selectably transferring the stored data" (claim 7) and

Page 6 - RESPONSE TO OFFICE ACTION DATED JANUARY 29, 2004
Serial No. 10020,022

"means for" both tasks (claim 15) are distinguished over the prior art for the same reasons as is claim 1.

All of the remaining claims rejected under 35 USC § 102 are dependent claims and are patentably distinguished over the prior art for at least the reason that each one depends on a patentable base claim. At least some of these claims, however, have an additional patentable distinction over the prior art of record. Some additional distinctions are discussed below.

Claim 6 includes the limitation "wherein the data includes a schedule for operating an electronic device via the rechargeable device." Claims should be read according to the common rules of English language construction. In this case the normal English language reading indicates that the "electronic device" is different from the "rechargeable device." Averbuch does not teach that the "rechargeable device" operates some further "electronic device" according to a schedule. Averbuch certainly doesn't teach downloading a schedule for operating a further "electronic device." Claims 8 and 16, similarly claim using the rechargeable device to control an electronic device per the downloaded data. In similar manner to claim 6, these claims are further distinguished over the prior art of record by this limitation. In addition, with respect to claim 10 and 11, Averbuch does not disclose "programming the charging device" by either the "remote source" (claim 10) or the "rechargeable electronic device" (claim 11) for any purpose.

Claim Rejections Under 35 USC § 103

Claims 4 and 16 are rejected under 35 USC § 103(a) as being unpatentable over Averbuch et al. in view of Reed (US 4,700,375). Although Reed does disclose a rechargeable device that can act as a remote control, nothing in the Reed patent indicates that it would be advantageous to transfer data to the rechargeable remote control unit. Accordingly, it cannot be said that there is a suggestion that it would be desirable to apply the teachings of Averbuch, having to do with the use of a recharger for transferring data to a portable unit, to the remote

Page 7 - RESPONSE TO OFFICE ACTION DATED JANUARY 29, 2004
Serial No. 10020,022

control unit of Reed. Such a suggestion of desirability is necessary for a combination of references to render a claim obvious. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Additionally, the USPTO's argument for rejecting claims 4 and 16 depends on claims 1 and 15 being anticipated by Averbuch. As discussed above, Applicant respectfully disagrees with this position. Accordingly, Applicant additionally submits that claims 4 and 16 are distinguished over the prior art of record because Reed does not address the limitations of claims 1 and 15 that are met by Averbuch.


In view of the foregoing reasons for distinguishing over the cited references, Applicant has not raised other possible grounds for traversing the rejections, and therefore nothing herein should be deemed as acquiescence in any rejection or waiver of arguments not expressed herein.

Page 8 - RESPONSE TO OFFICE ACTION DATED JANUARY 29, 2004
Serial No. 10020022

CONCLUSION

Applicant submits that in view of the foregoing arguments, the application is in condition for allowance, and favorable action is respectfully requested. The Commissioner is hereby authorized to charge any fees, including extension fees, which may be required, or credit any overpayments, to Deposit Account No. 50-1001.

Respectfully submitted,


Bradley M. Ganz
Registration No. 34,170
P. O. Box 10105
Portland, Oregon 97296
Telephone: (503) 224-2713
Facsimile: (503) 296-2172
email: mail@ganzlaw.com

Date: April 22, 2004

Correspondence to:

Phillips Intellectual Property & Standards
1109 McKay Drive, Mail Stop SJ41
San Jose, CA 95131 USA
Telephone: (408) 617-7700
Facsimile: (408) 617-4856
USPTO Customer Number: 24738